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FM SECSTATE WASHDC
TO ALL DIPLOMATIC AND CONSULAR POSTS
SPECIAL EMBASSY PROGRAM
AMEMBASSY BELGRADE
AMEMBASSY DUSHANBE
AMEMBASSY FREETOWN
USOFFICE PRISTINA

UNCLAS STATE 229648

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FOR REFCOORD

UNCLASSIFIED

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E.O. 12958: N/A
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SUBJECT: REFUGEE PROCESSING: EMBASSY REFERRALS

REF: STATE 215078

¶1. THIS MESSAGE HAS BEEN CLEARED BY M/P (SEP).

¶2. SUMMARY. THIS CABLE REMINDS POSTS THAT THEY ARE AUTHORIZED TO IDENTIFY AND REFER APPLICANTS FOR POSSIBLE REFUGEE RESETTLEMENT IN THE U.S. IT ALSO PROVIDES GUIDANCE ON WHICH REFUGEES MIGHT BE CONSIDERED FOR REFERRAL TO THE ADMISSIONS PROGRAM. END SUMMARY.

¶3. INDIVIDUALS OF ANY REPEAT ANY NATIONALITY MAY BE PROCESSED AS PRIORITY ONE EMBASSY REFERRALS, WITH FEW EXCEPTIONS, WITHOUT REFERENCE TO WASHINGTON. THOSE FEW EXCEPTIONS INCLUDE PALESTINIANS, NORTH KOREANS, AND LIBYANS, FOR WHOM THE BUREAU OF POPULATION, REFUGEES, AND MIGRATION (PRM) AND THE OFFICE OF INTERNATIONAL AFFAIRS AT INS HQ WILL NEED TO CONTINUE TO AUTHORIZE PROCESSING IN ADVANCE. IN ADDITION, POSTS WITH IN-COUNTRY PROGRAMS (FORMER SOVIET UNION, VIETNAM, CUBA) MUST SEEK PRM GUIDANCE BEFORE REFERRING NATIONALS OF THE HOST COUNTRY.

¶4. PRIORITY ONE IS DEFINED AS:

A) UNHCR-REFERRED OR EMBASSY-IDENTIFIED REFUGEES WHO ARE FACING COMPELLING SECURITY CONCERN IN COUNTRIES OF FIRST ASYLUM, IN NEED OF LEGAL PROTECTION BECAUSE OF DANGERS OF REFOULEMENT, OR WHO ARE IN DANGER DUE TO THREATS OF ARMED ATTACK IN AREAS WHERE THEY ARE LOCATED, AND FORMER POLITICAL PRISONERS.

B) UNHCR-REFERRED OR EMBASSY-IDENTIFIED REFUGEES, INCLUDING REFUGEE WOMEN-AT-RISK, VICTIMS OF TORTURE OR VIOLENCE, PHYSICALLY OR MENTALLY DISABLED AND PERSONS IN URGENT NEED OF MEDICAL TREATMENT NOT AVAILABLE IN THE COUNTRY OF FIRST ASYLUM.

C) UNHCR-REFERRED OR EMBASSY-IDENTIFIED REFUGEES, FOR WHOM OTHER DURABLE SOLUTIONS ARE NOT FEASIBLE AND WHOSE STATUS IN THE PLACE OF ASYLUM DOES NOT PRESENT A SATISFACTORY LONG-TERM SOLUTION.

¶5. A REFUGEE IS DEFINED UNDER U.S. LAW, INA SEC 101(A)(42), AS A PERSON WHO IS OUTSIDE HIS/HER COUNTRY OF ORIGIN AND IS UNABLE OR UNWILLING TO RETURN DUE TO PERSECUTION OR A WELL-FOUNDED FEAR OF PERSECUTION ON ACCOUNT OF RACE, RELIGION, NATIONALITY, MEMBERSHIP IN A PARTICULAR SOCIAL GROUP OR POLITICAL OPINION. IN ADDITION, A PERSON WHO HAS BEEN FORCED TO ABORT A PREGNANCY OR TO UNDERGO INVOLUNTARY STERILIZATION, OR WHO HAS BEEN PERSECUTED FOR FAILURE OR REFUSAL TO UNDERGO SUCH A PROCEDURE OR FOR OTHER RESISTANCE TO A COERCIVE POPULATION CONTROL PROGRAM SHALL BE DEEMED TO MEET THIS DEFINITION. PERSONS WHO ORDERED, INCITED, ASSISTED OR OTHERWISE PARTICIPATED IN THE PERSECUTION OF ANY OTHER PERSONS ON ACCOUNT OF THE SAME FIVE GROUNDS ARE EXCLUDED FROM THE DEFINITION.

¶16. WHILE INS HAS THE STATUTORY RESPONSIBILITY TO DETERMINE WHETHER AN INDIVIDUAL MEETS THE DEFINITION OF A REFUGEE, EMBASSY-REFERRED CASES SHOULD BE CAREFULLY SCREENED TO ENSURE THAT THE PERSON HAS A PRIMA FACIE REFUGEE CLAIM. A P-1 REFERRAL PROVIDES A POTENTIAL REFUGEE APPLICANT ACCESS TO U.S. RESETTLEMENT CONSIDERATION BUT DOES NOT GUARANTEE HIS OR HER ACCEPTANCE.

¶17. THE DEPARTMENT WISHES TO ENSURE THAT THERE IS ADEQUATE ACCESS TO THE U.S. REFUGEE ADMISSIONS PROGRAM WORLDWIDE FOR DESERVING REFUGEES IN NEED OF THIRD COUNTRY RESETTLEMENT REGARDLESS OF NATIONALITY OR FAMILY TIES TO THE UNITED STATES. WHILE WE DO NOT WANT TO OVERBURDEN EMBASSIES, WE HOPE EMBASSY STAFF INDIVIDUALLY RECOMMEND THOSE REFUGEES WHO ARE KNOWN TO THEM AND MAY BE AT RISK IN THE COUNTRY OF FIRST ASYLUM OR OF BEING RETURNED TO A COUNTRY WHERE THEY WOULD FACE PERSECUTION.

¶18. IN MOST INSTANCES, PRIORITY ONE CASES WILL COME TO THE ATTENTION OF THE U.S. PROGRAM THROUGH REFERRALS FROM UNHCR. PRM HAS BEEN WORKING WITH UNHCR GENEVA AND MANY OF ITS FIELD OFFICES TO IMPROVE THE TRAINING UNHCR STAFF RECEIVE IN THE AREA OF IDENTIFYING CASES IN NEED OF THIRD COUNTRY RESETTLEMENT. POSTS SHOULD REFER TO CURRENT REFUGEE ADMISSIONS PROCESSING GUIDELINES (STATE 215078) FOR GUIDANCE IN HANDLING UNHCR REFERRALS.

¶19. EMBASSIES, AS WELL AS UNHCR, ARE ALSO AUTHORIZED UNDER PRIORITY ONE TO REFER CASES FOR REFUGEE ADMISSIONS PROCESSING. SOME QUESTIONS HAVE BEEN RAISED REGARDING WHAT EXACTLY IS INTENDED BY "EMBASSY-REFERRED" CASES. THE FOLLOWING IS INTENDED AS GUIDANCE TO POSTS ON THIS ISSUE.

¶10. CASES MOST LIKELY TO BE REFERRED FOR PROCESSING BY AN EMBASSY WOULD INVOLVE FORMER FSNS OR HIGH PROFILE INDIVIDUALS WHO ARE KNOWN TO THE EMBASSY, HAVE FLED THEIR HOME COUNTRIES, ARE UNABLE TO RETURN HOME DUE TO FEAR OF PERSECUTION, AND DUE TO SECURITY OR OTHER SERIOUS ISSUES IN THE COUNTRY OF ASYLUM MAY BE IN NEED OF THIRD COUNTRY RESETTLEMENT. AN EMBASSY MAY CHOOSE TO CONSULT WITH THE DEPARTMENT, OTHER INVOLVED POSTS (SUCH AS IN THE COUNTRY OF ORIGIN) OR UNHCR. ANY SUCH COMMUNICATION SHOULD BE HANDLED WITH UTMOST DISCRETION. VIOLATING THE CONFIDENTIALITY OF THE INDIVIDUAL'S STATEMENTS AND/OR

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IDENTITY COULD COMPROMISE THE INDIVIDUAL'S SAFETY AND THAT OF FAMILY MEMBERS IN THE COUNTRY OF ORIGIN. THE CASE MAY ULTIMATELY BE DETERMINED BY UNHCR FOR A LOCAL SOLUTION OR REFERRAL TO THE U.S. OR OTHER COUNTRY FOR THIRD COUNTRY RESETTLEMENT.

¶11. IT IS ALSO POSSIBLE THAT AN NGO WORKING IN THE REFUGEE'S COUNTRY OF ASYLUM MAY RAISE A DESERVING CASE WITH AN EMBASSY. WHILE THE NORMAL PROCEDURE WOULD BE TO REFER THE CASE TO UNHCR OR THE HOST COUNTRY IF THE INDIVIDUAL REFUGEE IS NOT KNOWN TO THE EMBASSY, THERE MAY BE SITUATIONS WHERE A UNHCR OFFICE IS UNABLE TO ADDRESS ADEQUATELY AN INDIVIDUAL CASE. SHOULD THE NGO BE UNSUCCESSFUL IN OBTAINING THE NECESSARY ATTENTION FROM UNHCR, POSTS ARE FREE TO CONSIDER WHETHER OR NOT TO REFER THE CASE AS AN EMBASSY-REFERRED TO THE U.S. REFUGEE ADMISSIONS PROGRAM. ALL POSTS SHOULD DESIGNATE AN OFFICER OR ESTABLISH A COMMITTEE RESPONSIBLE FOR VETTING POTENTIAL EMBASSY REFERRALS.

¶12. WHILE THE SOLUTION FOR MOST REFUGEES IS TO REMAIN IN THE COUNTRY OF FIRST ASYLUM UNTIL REPATRIATION IS POSSIBLE, EMBASSIES ARE ENCOURAGED TO CONSULT WITH UNHCR SHOULD THEY HAVE QUESTIONS ABOUT THE CIRCUMSTANCES OF REFUGEE POPULATIONS, INCLUDING THE APPROPRIATENESS OF U.S. REFUGEE ADMISSIONS PROCESSING FOR SPECIFIC INDIVIDUALS. IT IS NOT, HOWEVER, ANTICIPATED THAT POSTS WILL BE CALLED UPON TO UTILIZE THEIR RESOURCES TO SCREEN SIGNIFICANT NUMBERS OF PERSONS WHO WISH TO BE CONSIDERED FOR U.S. RESETTLEMENT. UNHCR OR PRM-FUNDED VOLUNTARY AGENCY STAFF INVOLVED IN

REFUGEE PROCESSING ALREADY DO THIS AND ARE IN THE BEST POSITION TO DEAL WITH HIGH-VOLUME CASELOADS. IN MOST CASES, EMBASSY REFERRALS SHOULD BE LIMITED TO THOSE INDIVIDUALS WHO ARE KNOWN TO THE EMBASSY OR IN WHOM THE U.S. HAS A SPECIAL HUMANITARIAN CONCERN AND WHOM THE EMBASSY BELIEVES HAVE VALID REASONS TO FEAR PERSECUTION ON ACCOUNT OF RACE, RELIGION, NATIONALITY, MEMBERSHIP IN A PARTICULAR SOCIAL GROUP OR POLITICAL OPINION.

¶13. PROCEDURES FOR REFERRAL: TO REFER A CASE TO THE U.S. REFUGEE PROGRAM, AN EMBASSY SHOULD SEND A CLASSIFIED CABLE TO THE OVERSEAS INS OFFICE WITH JURISDICTION FOR THAT POST, THE REGIONAL REFUGEE COORDINATOR RESPONSIBLE FOR ADMISSIONS (BANGKOK, CAIRO, MOSCOW, NAIROBI, AND ISLAMABAD), THE DEPARTMENT SLUGGED FOR PRM/A, INS HEADQUARTERS SLUGGED FOR HQIAO, AND THE U.S. EMBASSY IN THE REFUGEE APPLICANT'S COUNTRY OF ORIGIN. (APPROPRIATE COUNTRY, PREF, AND CVIS TAGS SHOULD BE USED.) THE CABLE SHOULD INCLUDE BIOGRAPHICAL INFORMATION ABOUT THE PRINCIPAL APPLICANT AND ANY DEPENDENTS (INCLUDING THEIR CURRENT WHEREABOUTS), A BRIEF OUTLINE OF THE INDIVIDUAL'S PERSECUTION STORY, AND AN EXPLANATION AS TO WHY THE CASE HAS BEEN DETERMINED TO BE IN NEED OF THIRD COUNTRY RESETTLEMENT. REFCOORD AND INS WILL THEN CONTACT THE POST ABOUT THE PROCESSING MODALITIES.

¶14. EMBASSIES SHOULD CONTACT THE DEPARTMENT PRM/A AND THE EMBASSY IN THE REFUGEE'S COUNTRY OF ORIGIN (IF APPLICABLE) AND REFCOORDS NAIROBI AND CAIRO FOR SUB-SAHARAN AFRICA IF THEY HAVE ANY QUESTIONS ABOUT WHETHER A PARTICULAR CASE SHOULD BE A PRIORITY ONE EMBASSY REFERRAL.

¶15. MINIMIZE CONSIDERED.
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